
Comments solicited: Balancing the consolidating and streamlining of the new IHP and at the same time ensuring the State has an active role in the process. FEMA offers the States the opportunity to administer the program more independently, while at the same time being sensitive to congressional intent to consolidate and streamline assistance.

COMMENTS: California believes that the MOU will play an important part in ensuring the State has an active role in the disaster assistance process. The State also understands congressional intent to consolidate and streamline assistance and realizes that this should have a positive impact on the delivery of disaster assistance.

Comments solicited: On the possibility of a choice for the State to administer the temporary housing portion of the IHP.

COMMENTS: Even though this will allow the States to have a more active role in the process, without sufficient resources to administer the program, this could result in high administrative costs to the State and could detract from the congressional intent of consolidating and streamlining the delivery of disaster assistance.

Note: California administered a portion of the temporary housing in 1994 (DR-1008) with respect to mobile home repairs and earthquake bracing.

Comments solicited: On the provision in the proposed rule that would limit temporary housing assistance generally (rather than only in the case of the provision of "direct" housing assistance) to no more than 18 months. 206.101(d)(e)

COMMENTS: California agrees that including a provision to limit temporary housing assistance generally to no more than 18 months will allow for timely program closure, as long as the regulations include a provision to extend this period under extraordinary circumstances in the public interest.

Comments solicited: On the housing repair authority generally, and on the \$5,000 cap in particular. FEMA believes the enacted provision creates an absolute \$5,000 cap on repair assistance and is concerned that the cap might imprudently tie their hands in the administration of this provision.

COMMENTS: California agrees with FEMA that an absolute \$5,000 cap on repair assistance will hinder the administration of this part of the program. In addition, the \$5,000 is not a realistic amount for this type of assistance. Historically in California, FEMA has allowed repairs to cap at \$10,000, which in some circumstances was still considered insufficient. Therefore, if a cap is placed, it should be based on current pricing indexes for disaster-specific locale. However, under the broad use of funds and congressional intent to streamline the assistance, California believes repairs should be allowed up to the program limits (\$25,000). States with supplemental programs can address unmet needs beyond the \$25,000.

Comment solicited: On their interpretation of the differences between the different flood insurance purchase provisions. FEMA states that there is no legislative history clarifying the distinction between the different flood insurance purchase mandates in the amended U.S.C. 5174 and that it is important to apply the flood insurance purchase mandates consistently. In addition, they interpret the various flood insurance purchase mandates to apply only when a housing unit is to be placed in a designated special flood hazard area, which is consistent with the Flood Disaster Protection Act of 1973.

COMMENTS: California agrees with FEMA that requirements for the purchase of flood insurance be consistently applied and in accordance with the Flood Disaster Protection Act of 1973.

Comment solicited: On the administration of this authority vis-à-vis the flood insurance purchase mandates of other legislation. FEMA proposes to eliminate the GFIP and restore the responsibility for the flood insurance purchase requirement back to the recipient of federal assistance. If the recipient fails to maintain this insurance, they will not be eligible to receive future assistance.

COMMENTS: California disagrees with the proposal to eliminate the Group Flood Insurance Policy (GFIP). Since flood insurance purchase and maintenance is a requirement for recipients of federal assistance, the State believes that, at minimum, the initial premium for flood insurance should remain a part of the recipient's grant. While we understand the thought process that applicants do not maintain the insurance, resulting a waste of taxpayer dollars, paying the initial premium at least gives the applicant the jump start as an incentive.

Comments solicited: On the provision authorizing FEMA share applicant information with the States in order to facilitate the provision of additional State and local assistance to disaster victims (especially as it relates to the mandates of the Privacy Act).

COMMENTS: California believes it is important for FEMA to share applicant information in order to maximize assistance to individuals affected by a disaster. Information sharing is crucial to California as it has a State Supplemental Grant Program (SSGP) for those who reach maximum FEMA assistance and have remaining necessary expenses and serious needs. As in the past, the state would adhere to all Privacy Act conditions.

Comments solicited: (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency

- Request for Approval of Late Applications
- Request for Continued Assistance
- Appeal of Program Decision
- Review MOU
- Development Management Plans for Direct Housing
- Development of State Administrative Plan for Financial Assistance to Address Other Needs

(b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information

(c) Obtain recommendations to enhance the quality, utility, and clarity of the information to be collected

(d) Evaluate the extent to which automated, electronic, mechanical or other technological collection techniques may further reduce the respondents' burden.

COMMENTS: From California's experience the allotted time for some activities is insufficient should this be an applicable activity for the State to undertake.

Comments solicited: The Regulatory Flexibility Act requires agencies that promulgate regulations under the Administrative Procedures Act (e.g. the IHP proposed rule) to prepare and make available for public comment an initial regulatory flexibility analysis. This analysis is to include the regulatory impacts on 'small entities'. Since this proposed rule would not have a direct impact on small entities, it was determined that there was no need for FEMA to prepare an initial regulatory impact analysis relating to this proposed rule under the Regulatory Flexibility Act.

COMMENTS: Since disaster assistance under the IHP is provided to individuals and families, rather than to 'small entities,' the State agrees that this proposed rule would not have a direct impact on small entities and, therefore, an "initial regulatory impact analysis" is not necessary.

Comment solicited: FEMA expects that the primary benefits of the IHP proposed rule will be a reduction in the cost to the State governments of administering these programs and to the public in obtaining this assistance. FEMA has not analyzed these possible costs savings and request additional information from the public.

COMMENTS: California agrees that the proposed rule may result in a reduction of administrative costs. California historical documentation shows administrative costs well over the 5 percent FEMA reimbursement rate for administering the Individual and Family Grant Program (e.g. DR-1203 – reimbursed administrative costs were equivalent to only 10 percent of actual costs incurred). If the State chooses to have FEMA administer the 'Assistance to Address Other Needs' portion of the IHP program, the State could anticipate a cost savings.

Comment solicited: Relationship of the IHP proposed rule under Executive Order 13132 and its effects on the States. FEMA has determined that the proposed rule under Executive Order 13132 does not have 'substantial direct effects on the States.'

COMMENTS: California agrees that the proposed rule under Executive Order 13132 does not have a substantial direct effect on the State. However, California will continue to ensure that its citizens' concerns are represented during the disaster recovery process.

OTHER COMMENTS SUGGESTED CHANGES:

Changes to the Act: The new version of the 42 U.S.C. 5174(c) identifies the types of housing assistance that FEMA can provide in the aftermath of presidentially-declared major disasters. We would like to comment on (4) Financial assistance (up to \$10,000 per household) for the replacement of owner-occupied private residences that are damaged by major disasters. Section 206.108(3) FEMA may provide financial assistance under this paragraph to replace a disaster-damaged owner's occupied, primary residence if the dwelling can be replaced, in its entirety, for \$10,000 or less, as adjusted annually to reflect changes to the CPI.

UNSOLICITED
COMMENTS:

If a replacement of a travel trailer, or similar, is not taken out of the \$25,000, an individual can actually obtain up to \$35,000. This does not seem like a fair distribution when compared to those individuals who do not receive these type of direct assistance.

Changes to the Act: Change to the Act as it relates to 42 U.S.C. 5174(b) of the earlier version authorizes payment of mortgage or rental assistance to disaster victims, who as a result of the financial hardship caused by a major disaster, were unable to continue paying their pre-disaster rent or mortgages. This form of housing assistance is no longer in the Act, for major disasters declared on or after May 1, 2002.

UNSOLICITED
COMMENTS:

California disagrees with this change to the Act as it will have serious impacts on disaster recovery in the aftermath of all disasters, especially those resulting from major economic losses, (e.g. the 1990/91 Freeze, the 1992 Civil Unrest, and the 1998/99 Freeze). Although economic disasters do not typically result in physical real and personal property damages, they do result in loss of employment, impacting the ability to pay mortgage or rent. As a result, this can lead to foreclosure, eviction, and homelessness.

Changes to the Act: Because of the amendment at section 206(b) there is now authorization to make assistance available under 42 U.S.C. 5174 in both emergencies and major disasters.

UNSOLICITED

COMMENTS: California agrees with this change and believes it will be beneficial to its citizens.

Changes to the Act: Sec. 206.108 Housing Assistance
(2) Repairs.
(v) The individual or household is responsible for obtaining local permits or inspections that applicable State or local building codes may require.

UNSOLICITED

COMMENTS: California requests clarification regarding this language. Up to this point, FEMA has interpreted this to mean that the individual/household is "on its own" to obtain local permits and inspections, as well as the fiscal responsibility to pay for required associated fees. California disagrees with this. Homeowners who do not qualify for low interest loans from the U.S. Small Business Administration (SBA) will not be able to afford these expenses and cannot complete the repairs on their homes in a timely manner--or perhaps even permanently. This will be a setback in the recovery process for many communities. It will also delay the ability for other disaster programs to provide assistance in a timely manner, as well as result in the prolonged administrative closeout of a disaster. The State recommends FEMA use a broader interpretation of this statement so permitting and/or inspection fees may be considered eligible items under the IHP, and that consideration of this be addressed during the FEMA/State MOU process for a specific state.

NOTE: Due to earthquake and land movement issues in California, many individuals may not begin the rebuilding process without a soils test or engineering study. If costs associated with this process are not considered eligible under the IHP, the recovery process would be severely hampered.

Changes to the Act: Section 206.110 Financial Assistance to Address Other Needs – This section does not contain any pricing maximums for goods and services.

UNSOLICITED

COMMENTS: California suggests that FEMA establish pricing maximums for certain goods and services in the "Other" category similar to that stated in

206.108(4)(c) Eligible Costs. Some examples of unreasonable estimates that California has received in past disasters include: (1) \$20,000 in moving and storage and, (2) lifetime chiropractic appointments. Currently, the IFGP pricing guidelines contain limits. If caps are not placed on certain categories, excessive amounts for "other" items will be paid using the State's 25 percent share. In addition, states with supplemental grant programs for unmet needs, will be obligated to pay for repairs, goods, and/or services above the \$25,000 because of excessive allowance during the IHP portion

Other Suggested Changes:

Section 206.101 Federal Assistance to Individuals and Households

(a) Purpose. This section implements the policy and procedures set forth in section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5174. This program provides financial assistance and, if necessary, direct assistance to eligible individuals and households who, as a direct result of a major disaster or emergency, have uninsured or under-insured, necessary expenses and serious needs and are unable to meet such expenses or needs through other means.

(d) Date of eligibility. Eligibility for Federal assistance under this subpart will begin on the date of the incident that results in a Presidential declaration that a major disaster or emergency exists, except that reasonable expenses that are incurred in anticipation of an immediately preceding such event may be eligible for Federal assistance under this chapter.